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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,692	12/29/2003	Arieh Don	07072-159001	2149
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FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER FILIPCZYK, MARCIN R	
			ART UNIT 2163	PAPER NUMBER
			MAIL DATE 09/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/749,692

Applicant(s)

DON ET AL.

Examiner

Marc R. Filipczyk

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2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2007 and 16 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### **DETAILED ACTION**

This Action is responsive to Applicant's RCE request and amendment filed on June 18, 2007.

To expedite the process of examination Examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. amendments, 35 U.S.C. 112, objections and the like) set forth by the Examiner that Applicants provide and link to the most specific page and line numbers of the disclosure where the best support is found (see 35 U.S.C. 132).

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 18, 2007 has been entered.

Claims 1-17 are pending.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth whether the invention accomplishes a practical application and whether it generates a useful, concrete and tangible result.

The guidelines explain that a practical application of a 35 U.S.C. 101 judicial exception is claimed if the claimed invention physically transforms an article or physical object to a different state or thing, or if the claimed invention otherwise produces a useful, concrete, and tangible result.

In the present case, independent claims 1, 9, 14, 16 and 17 do not involve transformation of article or physical object to a different state or thing, they merely recite associating queues with a data structure. Further, independent claims 1, 9, 14, 16 and 17 do not produce a useful, concrete, and tangible result, but merely maintain or display data, however no useful, concrete and tangible result is created and stored for practicality. State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02.

Claims 1, 9, 14, 16 and 17 taken as a whole are directed to a mere method and program listing, i.e., to only its description or expression, is descriptive material per se, do not comprise a practical application as explained above hence are nonstatutory.

Since the claimed invention, as a whole, does not comprise a practical application as explained above, claims 2-7, 10-13 and 15 which depend from claims 1, 9, 14, 16 and 17 respectively, are deemed to be directed to non-statutory subject matter.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 9, 14, 16 and 17, claim 1 being exemplary, the phrase "data other than database records" is indefinite. It is not clear what constitutes data other than database records. Second, the term "extent" is indefinite. It is not clear what are the metes and bounds of extent. Similarly, the phrase, "certain extents" and "certain other extents" are indefinite. It is not clear what extents are referred to.

Further regarding claim 9, the phrase "extent set" is indefinite. It is not clear what the metes and bounds of extent set are.

Regarding claims 12, 13, the term "overlap" is indefinite. It is not clear how extents may or may not overlap.

Regarding claims 2-7, 10-13 and 15 depend from claims 1, 9 and 14, respectively, and are therefore rejected on the same basis.

Claims 1 and 16 recite the limitation "the basis" in the claims. There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 2-7, 10-13 and 15 depend from claims 1, 9 and 14, respectively, and are therefore rejected on the same basis.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Furuike (U.S.

Patent No. 6,947,944).

Regarding claims 1, 7-9, 14, 16 and 17, Furuike discloses a storage system, method and program that stores records and data other than database records, comprising (fig.1):

maintaining at the data storage system, information for distinguishing between extents of a logical device (fig. 2, item 7, *controller*) that are designated for storage of database records and extents that are designated for storage of data other than the records (fig. 2, item 11 *database definition file* [comprises a plurality of rules] and *classifying*, item 7, see col. 4, lines 20-24); and  
(Note: *data other than records is equated with records that are not searched classified as such*)

determining that target location is on an extent designated for storage of a record and not data other than records, whereby the record is written only to an extent that is designated for storage of a record (fig. 2, item 10, col. 5, lines 29-50) and outputting data (fig. 6, step C8, *output*).

Regarding claims 2, 3, 11, 15 Furuike discloses an extent table identifying properties associated with the extent (fig. 2, item 11 and related text) and verification steps (fig. 3, steps A1-A5).

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Regarding claim 4 Furuike discloses a logical device for records (designated for storage of records (fig. 2, item 7, *controller*).

Regarding claims 5 and 6, Furuike discloses the set of data verification steps depends on whether extent is for storing records or data other than records (fig. 2, item 11 and related text).

Regarding claim 10, Furuike discloses a write request (fig. 2, item 13, *input* and col. 5, lines 29-36).

Regarding claim 12, Furuike discloses the extents do not overlap (fig. 3, items A6-1 to A6-n, and related text).

Regarding claim 13, Furuike discloses the extents overlap are compatible (figs. 2 and 3, items 11 and A4-A8).

### ***Conclusion***

This Application has been transferred to Examiner Marcin Filipczyk.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art shows the state of art with respect to managing records:

U.S. Patent No. 6,070,164 of Vagnozzi

U.S. Patent No. 7,194,454 of Hansen et al.

U.S. Publication No. 2003/0093567 of Lolayekar et al.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc R. Filipczyk whose telephone number is (571) 272-4019. The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MF  
August 30, 2007

  
WILSON LEE  
PRIMARY EXAMINER